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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,377	11/12/2003	Erol Bozak	09700.0012-00	6379

22852 7590 10/04/2007  
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EXAMINER
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DASGUPTA, SOUMYA

ART UNIT	PAPER NUMBER
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2176

MAIL DATE	DELIVERY MODE
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10/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/706,377

Applicant(s)

BOZAK ET AL.

Examiner

Soumya Dasgupta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is a non-office action based on the first request for continued examination (RCE) for the initial office action 10/706,377 application filed on 3/16/2004. Claims 1-7, as originally filed, are currently pending and have been considered below. Claims 1, 4 and 7 are independent claims. This application has a priority date of November 12, 2003 with respect to the Non-provisional Application No 60/490,818.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/17/2007 has been entered.

2.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

#### **Claim 1:**

In line 5 of the claim, the applicant states the phrase "hierarchically inferior."

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Although the applicant points to pg.5 (line 9-21) for enablement, it is unclear to the examiner how this passage shows enable without undue experimentation. This passage does not define the phrase "inferior," or let alone, "hierarchically inferior" in the context of the applicants' invention. Since the applicants' disclosure on pg 5 (line 9-21) does not shed light to the phrase "inferior" or "hierarchically inferior," claims 1, 4, and 7 are rejected under 112 1<sup>st</sup> paragraph.

**Claim 4:**

In lines 12 and 15-16 of the claim, the applicant states the phrase "hierarchically inferior." Although the applicant points to pg.5 (line 9-21) for enablement, it is unclear to the examiner how this passage shows enable without undue experimentation. The passage does not define the phrase "inferior," or let alone, "hierarchically inferior" in the context of the applicants' invention. Since the applicants' disclosure on pg 5 (line 9-21) does not shed light to the phrase "inferior" or "hierarchically inferior," claims 1, 4, and 7 are rejected under 112 1<sup>st</sup> paragraph.

**Claim 7:**

In lines 9-12, 14, and 15 of the claim, the applicant states the phrase "hierarchically inferior." Although the applicant points to pg.5 (line 9-21) for enablement, it is unclear to the examiner how this passage shows enable without undue experimentation. This passage does not define the phrase "inferior," or let alone, "hierarchically inferior" in the context of the applicants' invention. Since the applicants' disclosure on pg 5 (line 9-21) does not shed light to the phrase "inferior" or "hierarchically inferior," claims 1, 4, and 7 are rejected under 112 1<sup>st</sup> paragraph.

**Claims 2-3:**

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Claim 2 and 3 are dependent claims of claim 1. Since claim 1 is rejected under 112 1<sup>st</sup> paragraph because the specifications fail to disclose enablement, claims 2 and 3 are also rejected under similar guidelines.

**Claims 5-6:**

Claim 5 and 6 are dependent claims of claim 4. Since claim 4 is rejected under 112 1<sup>st</sup> paragraph because the specifications fail to disclose enablement, claims 5 and 6 are also rejected under similar guidelines.

5. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

**Claim 1:**

With respect to claim 1, the applicant states the phrase "storing lists" in line 4 of the claim. The phrase "storing lists" does not appear to be explicitly defined in the specifications, therefore the phrase "storing lists" is not in the context of the applicants' invention and specifications as originally filed. Therefore, the phrase "storing list" is considered to be new matter.

**Claim 4:**

With respect to claim 4, the applicant states the phrase "storing lists" in line 11 of the claim. The phrase "storing lists" does not appear to be explicitly defined in the specifications, therefore the phrase "storing lists" is not in the context of the applicants' invention and specifications as originally filed. Therefore, the phrase "storing list" is considered to be new matter.

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**Claim 7:**

With respect to claim 7, the applicant states the phrase "storing lists" in line 8 of the claim. The phrase "storing lists" does not appear to be explicitly defined in the specifications, therefore the phrase "storing lists" is not in the context of the applicants' invention and specifications as originally filed. Therefore, the phrase "storing list" is considered to be new matter.

**Claims 2-3:**

Claim 2 and 3 are dependent claims of claim 1. Since claim 1 is rejected under 112 1<sup>st</sup> paragraph for disclosing new matter, claims 2 and 3 are also rejected under similar guidelines.

**Claims 5-6:**

Claim 5 and 6 are dependent claims of claim 4. Since claim 4 is rejected under 112 1<sup>st</sup> paragraph for disclosing new matter, claims 5 and 6 are also rejected under similar guidelines.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
7. Claims 1, 4, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 1, 4, 7:**

With respect to claim 1, in line 5, the phrase "hierarchically inferior" is vague and indefinite. Although the applicant points to pg.5 (line 9-21) for clarification, the phrase "inferior," or more specifically "hierarchically inferior," does not appear to be explicitly

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defined. The phrase "inferior," or more specifically "hierarchically inferior," can have several meanings and it does not shed light to the applicants' invention.

Also, in line 4, the phrase "storing lists" is vague and indefinite. The specifications do not shed light to the term "storing lists."

**Claim 4:**

With respect to claim 4, in lines 12 and 15-16, the phrase "hierarchically inferior" is vague and indefinite. Although the applicant points to pg.5 (line 9-21) for clarification, the phrase "inferior," or more specifically "hierarchically inferior," does not appear to be explicitly defined. The phrase "inferior," or more specifically "hierarchically inferior," can have several meanings and it does not shed light to the applicants' invention.

Also, in line 11, the phrase "storing lists" is vague and indefinite. The specifications do not shed light to the term "storing lists."

**Claim 7:**

With respect to claim 7, in lines 9-12, 14, and 15, the phrase "hierarchically inferior" is vague and indefinite. Although the applicant points to pg.5 (line 9-21) for clarification, the phrase "inferior," or more specifically "hierarchically inferior," does not appear to be explicitly defined. The phrase "inferior," or more specifically "hierarchically inferior," can have several meanings and it does not shed light to the applicants' invention.

Also, in line 8, the phrase "storing lists" is vague and indefinite. The specifications do not shed light to the term "storing lists."

**Claims 2-3:**

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Claim 2 and 3 are dependent claim of claim 1. Since claim 1 is rejected under 112 2<sup>nd</sup> paragraph for being vague and indefinite, claims 2 and 3 are also rejected under similar guidelines.

**Claims 5-6:**

Claim 5 and 6 are dependent claim of claim 4. Since claim 4 is rejected under 112 2<sup>nd</sup> paragraph for being vague and indefinite, claims 5 and 6 are also rejected under similar guidelines.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.



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Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim fails to place the invention within one statutory class of invention.

**Claims 1 - 6:**

On page 14, lines 11-15 of the instant specification, applicant has provided evidence that applicant intends the "medium" to use signals. As such, the claim is drawn to a form of energy.

The applicant states: "Embodiment of the invention can be implemented as a computer program product, i.e., a computer program tangibly embodied in an information carrier, e.g., in a node-readable storage device or in a propagated signal, for execution by, or to control the operation of, data processing apparatus, e.g., a programmable processor, a computer, or multiple computers."

Energy is not one of the four categories of invention and therefore this one of the four categories of invention and therefore this claim(s) is/are not statutory. Energy is not a series of steps or acts and this is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 4, and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Vaid et al (US 6,502,131; Patent Filing Date: Dec 4, 1998; Patent Issue Date: Dec 31, 2002; hereafter Vaid).

**Claim 1:**

Vaid teaches a **computer-readable medium storing a computer program for displaying, on a display device, a graphical user interface (GUI) comprising: a structure with columns and rows, each of the rows representing services in a grid computing network**, (Fig 10 → Vaid teaches a system that is a distributed traffic management system that is coupled to a network. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)

**the services storing lists of hierarchically inferior services**, (Fig 10 → Vaid teaches a system that prioritizes network information flow. Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format. Col 25, lines 1-6 and Col 9, lines 17-21 → Vaid discloses a system where network traffic flow policy is stored in a database and the meta-data associated has the option to be stored in a tangible medium.)

**the rows structured hierarchically with respect to an application where a service belongs, a type of service, and concrete service instances**. (Fig 10 → Vaid teaches a system where rows represent servers with their respective data and are listed in ascending or descending order. )

**Claim 2:**

Vaid teaches **the computer-readable medium in which each service instance row is associated with a place in the structure representing where it is instantiated in the grid computing network.** (Fig 10 → Vaid teaches a system where rows represent servers with their respective data and are listed in ascending or descending order. Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format.)

**Claim 4:**

Vaid teaches **a computer-readable medium storing a computer program for displaying, on a display device, a graphical user interface (GUI) describing a set of services for managing a portion of a computer grid, the GUI comprising: a matrix with columns and rows,** (Fig 9 → Vaid teaches a system with a GUI that shows columns and rows. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)

**each column representing a computer from a set of computers in the computer grid,** (Fig 9 → Vaid teaches a system with a GUI that shows various tasks of clients, servers, and services in a network. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)

**each computer from the set of computers having a grid manager,** (Fig 9 → Vaid teaches a system that is a distributed computing management system with a GUI that has various tasks of computers , servers, and services.)

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**and each row representing a grid manager or other application service, positions of labels in the structure indicating which computer currently runs which grid manager or other application service;** (Fig 9 → Vaid teaches a system that is a distributed computing management system with a GUI that shows servers running other networks and monitors the traffic flow of the network. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)

**a column representing a first computer from the set of computers running a first grid manager,** (Fig 9 → Vaid teaches a system that shows a GUI displaying a list of servers running a network that is hierarchically arranged with respect to the application running. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)

**the first quid manager storing a list of one or more quid managers hierarchically inferior to the first quid manager;** (Fig 10 → Vaid teaches a system that prioritizes network information flow. Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format. Col 25, lines 1-6 and Col 9, lines 17-21 → Vaid discloses a system where network traffic flow policy is stored in a database and the meta-data associated has the option to be stored in a tangible medium.)

**and one or more columns representing one or more computers from the set of computers running the one or more grid managers hierarchically inferior to the first grid manager.** (Fig 9 → Vaid teaches a system that is a distributed computing management system with a GUI that shows servers running other networks and monitors the traffic flow of the network. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)

**Claim 6:**

Vaid teaches **the computer-readable medium wherein the rows representing application services are structured by application class.** (Fig 10 → Vaid teaches a system where rows represent servers with their respective data and are listed in ascending or descending order. Vaid teaches a system where the user can select the option of services and clients as a variable on the row.)

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaid et al (US 6,502,131; Patent Filing Date: Dec 4, 1998; Patent Issue Date: Dec 31, 2002;

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hereafter Vaid) in view of Pitchaikani et al (US 6061505; Patent Issue Date: may 9, 2000; hereafter Pitchaikani).

**Claim 7:**

Vaid discloses grid managers and grid networks. (Fig 10 → Vaid teaches a system that is a distributed management networking system.)

Vaid does not appear to explicitly disclose the main server of the grid network as a root node (concentrator) and the successive servers and clients of the grid network, or in other words a sub grid network, as child nodes (stations) in a network which includes a **method comprising: receiving a request to view a sub grid network of a grid network, the sub grid network representing a root node and nodes hierarchically inferior to the root node, the nodes representing grid managers managing one or more services running on computers in the grid network.**

Patchaikani discloses the main server of the grid network as a root node (concentrator) and the successive servers and clients of the grid network, or in other words a sub grid network, as child nodes (stations) in a network which includes a **method comprising: receiving a request to view a sub grid network of a grid network, the sub grid network representing a root node and nodes hierarchically inferior to the root node, the nodes representing grid managers managing one or more services running on computers in the grid network.** (Fig 1, Col 10, lines 66 – col 11, line 10 → Patchaikani discloses a system that allows users to view a subview of the network where the root node (concentrator) and the subsequent nodes (stations) are arranged in a hierarchical or tree-like format.)

Vaid and Patchaikani are analogous art because they are from the same field of endeavor of networking systems.

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At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Vaid and Patchaikani before him or her, to incorporate a distributed network that monitors information of other servers, applications and services, and clients, as disclosed by Vaid, with a network in a tree-like format that has parent and child nodes, as disclosed by Patchaikani.

The motivation for doing so would have been to allow networks to run more efficiently in a hierarchical formation.

Therefore, it would have been obvious to combine Patchaikani with Vaid to obtain the invention as specified in the instant claim.

Vaid also discloses **querying a grid manager representing the root node for its status** (Fig 13 → Vaid discloses a system that shows the network management information of the system) **and addresses of nodes hierarchically inferior to the root node**, (Fig 10 → Vaid discloses a system that shows a GUI with addresses of connected servers. Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format.) **the quid manager representing the root node storing a list of hierarchically inferior quid managers** (Col 25, lines 1-6 and Col 9, lines 17-21 → Vaid discloses a system where network traffic flow policy is stored in a database and the meta-data associated has the option to be stored in a tangible medium.) **representing the nodes hierarchically inferior to the root node**; (Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format.)

Vaid also discloses **querying the hierarchically inferior grid managers for a current status**; (Fig 9 → Vaid discloses a system that displays the current and up-to-date status of attached servers, clients, and applications)

Vaid also discloses **displaying a state of the root quid manager** (Fig 13 → Vaid discloses a system that shows the network management information of the system) **and the hierarchically inferior grid managers and, for each grid manager, a computer system running the grid manager.** (Fig 10 → Vaid teaches a system that is a distributed computing management system with a GUI that shows servers, applications, and clients running other networks and monitors the traffic flow of the network. Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format.)

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaid et al (US 6,502,131; Patent Filing Date: Dec 4, 1998; Patent Issue Date: Dec 31, 2002; hereafter Vaid) in view of Weitzman (US 2003/0197726; PG Publishing Date: Oct 3, 2003; Patent Filing Date: Mar 28, 2003; hereafter Weitzman).

**Claim 3:**

Vaid discloses the limitations of claim 2.

Vaid discloses columns as servers and services.

Vaid does not appear to explicitly disclose columns as servers and services in **the computer-readable medium in which columns represent grid nodes.** (Fig 10 → Vaid teaches a system that is a distributed traffic management system that is coupled to a network. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)



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Weitzman discloses columns as servers and services in **the computer-readable medium in which columns represent grid nodes**. (paragraph 151 → Weitzman discloses a system where the grid network is represented by nodes.

Vaid and Weitzman are analogous art because they are from the same field of endeavor of network management.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Vaid and Weitzman before him or her, to incorporate a distributed management system GUI that has columns that represent servers, services, and clients, as disclosed by Vaid, with grid network that computers represented as nodes, as disclosed by Weitzman.

The motivation for doing so would have been to allow GUIs to display nodes that represent computers and servers.

Therefore, it would have been obvious to combine Weitzman with Vaid to obtain the invention as specified in the instant claim.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaid et al (US 6,502,131; Patent Filing Date: Dec 4, 1998; Patent Issue Date: Dec 31, 2002; hereafter Vaid) in view of Bibayan (US 5,659,694; Patent Issue Date: Aug 19, 1997; hereafter Bibayan).

**Claim 5:**

Vaid discloses the limitations of claim 4.

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Vaid discloses **grid managers and other application services in the matrix.** (Fig 10 → Vaid teaches a system that is a distributed traffic management system that is coupled to a network. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.)

Vaid does not appear to explicitly disclose **the computer-readable medium wherein the GUI further comprises a shrinkable structure that hides the labels.**

However, Bibayan discloses **the computer-readable medium wherein the GUI further comprises a shrinkable structure that hides the labels.** (Fig 5, item 156 → Bibayan discloses a system with a minimize button.

Vaid and Bibayan are analogous art because they are from the same field of endeavor of GUI labels and headers.

At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Vaid and Bibayan before him or her, to incorporate a GUI that has labels and headers, as disclosed by Vaid, with a method to minimize windows, as disclosed by Bibayan.

The motivation for doing so would have been to allow users to hide labels and headers on a GUI presentation.

Therefore, it would have been obvious to combine Bibayan with Vaid to obtain the invention as specified in the instant claim.

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

This is a provisional obviousness-type double patenting rejection.

**Claim 1:**

6. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,3 of copending Application No. 10/712,886. (hereafter '886) in view of Vaid et al (US 6,502,131; Patent Filing Date: Dec 4, 1998; Patent Issue Date: Dec 31, 2002)

Claims 1 and 3 of application 10/712,886 (from hereon referred to as 712) **teaches a graphical user interface (GUI) comprising: a structure with columns and rows, each of the rows representing services in a grid computing network,** each of the (Claim 1 of 712 states that the graphical user interface (GUI) comprising: a graph with edges and vertices, the vertices representing grid nodes and the edges

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representing an association of two grid nodes in a grid computing network), **the rows structured hierarchically with respect to an application where a service belongs, a type of service and concrete service instances** (Claim 3 of 712 states that the association is hierarchical).

Claims 1 and 3 of 712 fail to teach columns and rows.

Vaid teaches **columns and rows representing services in a grid computing network, and hierarchical structure with respect to an application where a service belong, a type of service and concrete service instances and the columns represent grid nodes for the purpose of teaching a hierarchical grid network.** (Fig 10 → Vaid teaches a system that is a distributed traffic management system that is coupled to a network. This system has a GUI that has columns and rows representing servers, services, and clients and their respective traffic flow information.) and **in a grid computing network, the services storing lists of hierarchical inferior services** (Fig 10 → Vaid teaches a system that prioritizes network information flow. Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format. Col 25, lines 1-6 and Col 9, lines 17-21 → Vaid discloses a system where network traffic flow policy is stored in a database and the meta-data associated has the option to be stored in a tangible medium.)

It would have been obvious to one having ordinary skill in the art to modify 712 to graphical user interface (GUI) comprising: a structure with columns and rows (in place of the edges and vertices), each of the rows representing services in a grid computing network, the rows structured hierarchically with respect to an application where a service belongs, a type of service and concrete service instances as taught by Vaid because the two types of structures are well known equivalents.

### **Claim 2:**

Claim 2 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/712,886 (hereafter '886). Claim 1 of '886 teaches **the GUI in which each service instance row**

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**is associated to a place in the grid-like structure representing where it is instantiated.** (Claim 1 of '886 states "a graph with edges and vertices, the vertices representing grid nodes in a quid network, each of the quid nodes comprising a quid manager.")

Although Claim 1 of '886 does not explicitly state a "row," the examiner notes that a graph with edges and vertices can be portrayed as a bar graph or a grid, which has rows and columns.

**Claim 3:**

Claim 3 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/712,886 (hereafter '886). Claim 1 of '886 teaches **the GUI in which columns represent grid nodes.** (Claim 1 of '886 states "a graph with edges and vertices, the vertices representing grid nodes in a quid network, each of the quid nodes comprising a quid manager.")

Although Claim 1 of '886 does not explicitly state a "column," the examiner notes that a graph with edges and vertices can be portrayed as a bar graph or a grid, which has rows and columns.

**Claims 4 and 5:**

Claims 4 and 5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 10/712,886 (hereafter '886).

Claims 4 and 5 of application 10/712,886 (from hereon referred to as 712) teaches a **graphical user interface (GUI) describing a set of services managing a portion of a computer grid, the GUI comprising: a matrix-like structure with columns and rows, each column representing a computer from a set of computers in the**

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→ **computer grid** (Claim 4 of 712 states a graph with vectors and nodes for visualizing a computer grid); **each column representing a computer from a set of computers in the computer grid [and] a column representing a first computer from the set of computers running a first grid manager** (Claim 4 of 712 states a graph with vectors and nodes representing computers running grid managers and the vectors representing relations between pairs of grid managers); **each computer from the set of computers having a grid** (Claim 4 of 712 states that the vectors representing relations between pairs of grid managers); **each row representing a grid manager or other application service and positions of labels in the structure indicating which computer currently runs which grid manager or other application service** (Claim 4 of 712 states to generate a display showing the management services running on the computer); **and one or more columns representing one or more computers from the set of computers running one or more grid managers having an inferior relation with the first grid manager** (Claim 4 of 712 states that); **and also teaches a shrinkable structure that hides the labels representing grid managers or other application services** (Claim 4 of 712 states an expandable structure showing computer grid applications), respectively.

Although Claim 1 of '886 does not explicitly state a "column," the examiner notes that a graph with edges and vertices can be portrayed as a bar graph or a grid, which has rows and columns. It would have been obvious to one having ordinary skill in the art to modify 712 as a shrinkable structure because the opposite of a shrinkable structure is an expandable structure.

**Claim 7:**

Claim 7 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. 10/712,886 and further in view of Vaid (US 6,502,131).

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→ Claim 5 of application 10/712,886 (from hereon referred to as 712) teaches a **method comprising: receiving a request to view a sub grid network of a grid network** (Claim 5 of 712 states receiving a request to visualize a grid network with at least one node from a set of linked nodes); **the sub grid network representing a root node and nodes with inferior relations to the root node and displaying a state of the root and inferior grid managers and for each grid manager, a computer system running the grid manager** (Claim 5 of 712 states displaying nodes corresponding to the grid managers in the first list and drawing vectors from the grid manager to the grid managers in the first list of grid managers); **the nodes representing grid managers managing one or more services running on computers in the grid network** (Claim 5 of 712 states the nodes representing computers running grid managers and vectors representing relations between pairs of grid managers); **querying a grid manager representing the root node for its status and addresses of nodes with inferior relations and querying inferior grid managers for current status** (Claim 5 of 712 states sending a first query to the grid manager requesting a first list of grid managers having an inferior relation to the root node).

Claim 5 of 712 fails to teach **the quid manager representing the root node storing a list of hierarchically inferior quid managers representing the nodes hierarchically inferior to the root node.**

Vaid teaches **the quid manager representing the root node storing a list of hierarchically inferior quid managers representing the nodes hierarchically inferior to the root node** (Fig 10 → Vaid teaches a system that prioritizes network information flow. Fig 1 → Vaid discloses a system that contains servers coupled together in a hierarchical format. Col 25, lines 1-6 and Col 9, lines 17-21 → Vaid discloses a system where network traffic flow policy is stored in a database and the meta-data associated has the option to be stored in a tangible medium.)

It would have been obvious to one having ordinary skill in the art to modify 712 with a storing mechanism in order to store the data associated as taught by Vaid.

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***Response to Arguments***

**Claim 1:**

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

The applicant argues that Vaid fails to disclose "the services storing lists of hierarchally inferior services" as recited in claim 1.

The examiner notes that "storing a list" is functionally equivalent to storing information in a database as disclosed by Vaid (Col 25, lines 1-6 and Col 9, lines 17-21). Also, the specifications do not disclose a "list," much less "a storing list." Therefore "a storing list" is considered new matter and is rejected under 112 1<sup>st</sup> paragraph. Also, the term "hierarchical," much less "hierarchically inferior," is not clearly defined in the specifications (see 112 1<sup>st</sup> paragraph rejection and 112 2<sup>nd</sup> paragraph rejection), therefore the term hierarchical could mean sorting data in ascending order Fig. 9 or it could mean a network connection with a central server as disclosed in Fig .1.

**Claim 2:**

Applicant's arguments with respect to claim 2 have been considered but are moot in view of the new ground(s) of rejection.

The applicant argument is based on the arguments of claim 1. See "Response to Arguments" – claim 1.

**Claim 3:**

Applicant's arguments with respect to claim 3 have been considered but are moot in view of the new ground(s) of rejection.

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The applicant argument is based on the arguments of claim 1. See "Response to Arguments" – claim 1.

**Claims 4 and 6:**

Applicant's arguments filed that the term "(i) 'hierarchical' is not functionally equivalent to 'sorts data.., in ascending order'" and furthermore, that Vaid does not teach "(ii) grid managers," and "(iii) storing a list" have been fully considered, but they are not persuasive.

The examiner notes that:

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- (i) that the term "hierarchical" is not clearly defined in the specifications (see 112 1<sup>st</sup> paragraph rejection and 112 2<sup>nd</sup> paragraph rejection), therefore the term hierarchical could mean sorting data in ascending order Fig. 9 or it could mean a network connection with a central server as disclosed in Fig. 1. See "Response to Argument of claim 1."
  - (ii) distributed networks or distributed network management is analogous to parallel processing, "grid computing, and grid management." Since Vaid discloses a distributed networking system and the limitations of a distributed networking system, Vaid also discloses the limitations of a grid networking system.
  - (iii) "storing a list" is functionally equivalent to storing information in a database as disclosed by Vaid (Col 25, lines 1-6 and Col 9, lines 17-21). Also, the specifications do not disclose a "list," much less "a storing list." Therefore "a storing list" is considered new matter and vague and indefinite, and is therefore rejected under 112 1<sup>st</sup> paragraph and 112 2<sup>nd</sup> paragraph respectively.
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**Claim 5:**

Applicant's arguments with respect to claim 5 have been considered but are moot in view of the new ground(s) of rejection.

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**Claim 7:**

Applicant's arguments with respect to claim 7 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soumya Dasgupta whose telephone number is 571-272-7432. The examiner can normally be reached on M-Th 9am-7pm, F 9am-1pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on 571-272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SD

*/Doug Hutton/*  
Supervisory Primary Examiner  
Technology Center 2100

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